O.R.L.

office of the registrar of lobbyists

BRITISH COLUMBIA

2010-2011 Annual Report

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2010-2011 Annual Report Highlights

Lobbyists in British Columbia are regulated by the *Lobbyists Registration Act* (LRA), which is enforced by the British Columbia Office of the Registrar of Lobbyists (ORL). To promote transparent and accountable government decision-making, the LRA requires lobbyists to register in an online, public registry maintained by the ORL. Members of the public can view the registry to learn who is attempting to influence government decisions, and on what issues.

Before April, 2010, lobbyist legislation in B.C. did not give the Registrar of Lobbyists powers to enforce the requirement to register. In October 2009, Bill 19, the *Lobbyist Registration Amendment Act*, was presented to the Legislature. It gave the Registrar increased powers to enforce the requirement that lobbyists register, and to apply administrative penalties of up to $25,000 if, after an investigation, a person is found to be in non-compliance with the Act. The Bill was passed and came into force on April 1, 2010.

Registrar's Message

In the busy year since the amendments to the Act came into force, the ORL has achieved a great deal. The Registrar acknowledges members of the lobbying community who have registered their lobbying activities and thanks the ORL staff for their hard work through the year. The ORL staff has carried out extensive public education to make sure that lobbyists in British Columbia are aware of their legal obligation to register their lobbying activities, and many members of the British Columbia lobbying community have registered.

Due to a number of factors, achieving full compliance with lobbying laws is often difficult. The ORL is aware of these challenges and, in the coming year, will continue its public education efforts and increase its investigations into non-compliance and, where appropriate, apply administrative penalties.

Milestones and Accomplishments

To support its efforts to achieve compliance with the law, the ORL has carried out a number of initiatives. Coinciding with the coming-into-force of the amendments, the ORL launched a new website and an online, public lobbyists' registry. The office established an ORL Advisory Committee to assist in implementing the amendments to the Act. It also published policies and procedures to explain how the Registrar intends to be guided in enforcing the LRA.

ORL Compliance Strategy

The ORL employs a graduated continuum of strategies to promote compliance with the Act. During the first year of enforcing the new legislation, our focus has been on education and outreach. In the coming year, the ORL will expand the strategies employed to include, in addition to education, a stronger focus on investigation, and the application of administrative penalties where necessary.

Looking Ahead

In the year to come, the ORL will look into ways to increase the effectiveness of lobbyist regulation in British Columbia. The Registrar is also examining options for the development of a lobbyists' code of conduct for British Columbia to support and enhance lobbying in British Columbia.

Registrar's Message

It has been a busy year for the ORL. Amendments to the LRA that came into force in April 2010, brought significant new responsibilities to our office and to the British Columbia lobbying community, as well.

The ORL is responsible for monitoring compliance with British Columbia's LRA and associated regulations. The objective of the legislation and regulations is to ensure that lobbying is carried out in a transparent manner.

Despite its mythical reputation as a shady undertaking, lobbying plays an integral role in democracy. Lobbying allows individuals and organizations that employ lobbyists to voice their concerns or positions to government and attempt to have those concerns addressed. Lobbying is a functional part of a democracy, because it sharpens debate, provides an outlet for opinions, and gives government more information on which to base decisions.

I'd like to begin by acknowledging the members of the lobbying community who have registered in our online registry. If you are a registered lobbyist, you are helping to support the goal of an open and transparent government for British Columbians by disclosing your lobbying activities and the interests you represent. The registry, which was launched in April 2010, is available online for members of the public to see who is lobbying whom on whose behalf, and on what matters. This allows members of the public to see what interests might be influencing public decision-makers, and to take a more active role in holding government accountable for its decisions.

The ORL staff has worked hard to publicize the fact that all lobbyists active in British Columbia are required to register in the new system, and many people logged on in the first days after the registry's launch – Easter weekend 2010, no less – to fulfill their legal obligation to register. As is often the case with technology, our system had some bugs that needed to be worked out, and the lobbying community responded largely with patience and good will, for which I offer thanks on behalf of myself and the ORL team.

In the past year, the ORL team has been helping lobbyists in British Columbia understand their obligation to register, and supporting them in doing so. Our registry help desk has responded to phone calls from lobbyists, and supported people through the registration process. ORL staff have crisscrossed the province, holding public information sessions about the requirement to register and responding to questions from individuals and groups about how the legislation might affect them. We have also developed new policies and procedures to advise the public about how we will apply the legislation, consulted with the lobbying community through a Lobbyists Advisory Committee, and published a substantial body of public education materials as part of our ongoing compliance initiative.

In short, ORL staff members and many in the lobbying community have been working together to ensure that the legal requirement for lobbyists to register is understood and met.

Achieving full compliance with lobbying laws has its challenges, and unregistered lobbying continues to take place. Reasons for non-compliance with the law are varied. Sometimes, the non-compliance is inadvertent. Lobbying is not always well-understood, and common misconceptions about what lobbying is and is not can result in people not appreciating that their activities constitute lobbying and need to be registered as such.

Others may be aware of their obligation to register, but choose not to. Finding those individuals who choose not to comply with the law can be difficult. Sometimes, the ORL is alerted to intentional non-compliance by a concerned member of the public, public office holder, or other lobbyist. Other times, we discern unregistered lobbying by noting and tracking government priorities and media coverage of current events and issues and comparing the results of these scans to information in the registry.

Preventative measures remain the most effective way to promote compliance. In this first year after the new law came into force, our primary compliance strategy has been public education. We will continue with our public education program, but the complex nature of achieving compliance requires the deployment of a variety of strategies. The LRA provides the Registrar with not only the specific duty to educate, but also with powers to investigate and apply penalties. In the coming year, we will intensify our investigation process and apply administrative penalties in deserving cases of non-compliance.

This year, I will continue to advocate for the development of a lobbying code of conduct to support the goals of honesty, openness, and professionalism in lobbying. I believe that the vast majority of lobbyists conduct their business with integrity. It is necessary, however, to manage those who do not, so British Columbians can feel confident that the lobbying of public decision-makers on matters of public interest is carried out according to high standards of ethics and transparency.

Our success to date is partly due to support we have received from a number of organizations and individuals over the past few years. I would like to thank ITI Technologies and Sierra Systems, and Ministry of Attorney General ITSD and public affairs professionals for their help.

Finally, I would to like to thank my Deputy Registrar of Lobbyists, Mary Carlson, who has been the force behind our initiatives over the past year. She has been instrumental in moving the work of our office forward on many fronts. The numerous accomplishments of the ORL team over the past year illustrate the dedication and integrity of the people who serve British Columbia through our public service.

Elizabeth Denham
Registrar of Lobbyists

1. 2010-2011 Milestones & Accomplishments

The changes to the LRA created new responsibilities for the ORL. To meet them, we embarked on an ambitious range of new initiatives designed to support lobbyists in registering their lobbying activities and to raise public awareness of the existence and purpose of the registry.

Lobbyists Advisory Committee

In May 2010, we established a Lobbyists Advisory Committee. The committee was formed to act as a resource for the ORL, providing feedback on the implementation of the new LRA. The committee's terms of reference included providing feedback on: [1]

- ORL policies, procedures and practices;
- Outreach opportunities and educational materials, including advisory bulletins;
- Sectoral and/or general concerns from the lobbying community;
- ORL services;
- The ORL website and online registry system; and
- The selection and term of advisory panel members.

Since the launch of the new online lobbyists' registry in April 2010, meetings with the Advisory Committee have been a forum for soliciting feedback on the development of policies and procedures and public education and outreach activities, and for collecting recommendations on how to improve the registry itself. The committee meets quarterly, and meeting minutes are posted on the ORL website.

Policies and Procedures

In May 2010, the ORL drafted policies and procedures to publicize how it intends to be guided in its enforcement of the LRA.[2] Prior to being approved, the policies and procedures were distributed to targeted audiences, including the BC Bar Association and the BC Freedom of Information and Privacy Association, and circulated within the Advisory Committee for feedback and review. The policies and procedures were posted on our website in February 2011.

New Online Registry

The new online lobbyist registration system was officially launched on March 31, 2010. The purpose of the online registry is to allow individuals and organizations to register in accordance with the LRA. The registry also allows public viewing and searching of information about current and past lobbying.

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[1] **To view the Committee's Terms of Reference, see the following link:**
http://www.lobbyistsregistrar.bc.ca/index.php?option=com_content&view=article&id=165&Itemid=125

[2] **For the complete text of the ORL Policies and Procedures, see the following link:**
http://www.lobbyistsregistrar.bc.ca/images/pdfs/ORLPoliciesandProcedures.pdf

Over the past year, corrective and adaptive maintenance of the system has fine-tuned its operation. The changes have included a number of improvements to increase the level of detail of the public reports and to make it easier for lobbyists to submit and update their registrations as the need arises.

➢ New Website

The new ORL website was launched to coincide with the launch of the online lobbyists' registry and the legislation's coming-into-force in April 2010.[3] The ORL website is the access point for lobbyists to submit or update registrations, and for members of the public to search the lobbyist registry. The website also publishes the ORL's documents and public education materials, and provides links to British Columbia's and other Canadian lobbyist legislation.

2. ORL Compliance Strategy

The ORL uses an interrelated spectrum of compliance strategies to promote the open and transparent registration of lobbying in BC. Our compliance strategy is built on guidelines recommended in *Lobbyists, Governments and Public Trust*, a recent report from the Organisation for Economic Co-operation and Development.[4] Whenever possible, we use cost-effective and non-punitive means for resolving minor matters, including education, mediation, and warnings.

The following sections outline the series of compliance strategies available to the Registrar under the amended legislation.

I. Incentives

Incentives are meant to encourage individuals who are required by law to register to do so in a timely fashion. With the legislative amendment, registration fees were eliminated and internet-based filing now provides ease of access for registrants. We also provide support through our help desk to assist people in understanding how to file, when to re-register, whether a filing extension is permitted and how to apply for an extension.

II. Education and Outreach

Education has been the foundation of our compliance strategy in our first year. We have worked hard to ensure that lobbyists within the province are aware of their obligation to register and understand how to do so. Public education and outreach are part of the Registrar's specific legal mandate. The ORL has employed a variety of communication strategies to raise awareness about the new rules for lobbyists in B.C.

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[3] **The website can be found at** http://www.lobbyistsregistrar.bc.ca/

[4] **For the complete text of the OECD report, see:** http://www.oecd.org/dataoecd/5/41/41074615.pdf

Advisory Bulletins

A number of advisory bulletins have been created and published on our website to help members of the public and lobbyists understand the requirement for lobbyists to register and what that entails.

The bulletins are for advisory purposes only and should not be seen as offering legal advice, but they present practical answers to common questions about the LRA. The bulletins include topics such as "What is Lobbying?", "What Communication is Not Lobbying?", "Democracy and Lobbying," and "Grassroots Lobbying," among others. We continue to create new bulletins as the need arises.[5]

Compliance Workshops

A central component in the ORL's compliance strategy is proactive public education. We have hosted a series of free workshops in urban centres across B.C., including Vancouver, Abbotsford, Surrey, Victoria, Nanaimo, Campbell River, Kelowna, Kamloops, and Prince George. The workshops allow ORL staff members to explain the legislative requirements for lobbying in B.C., answer participants' questions about specific matters, and learn from those questions what further public information is needed.

Influencing BC Newsletter

Beginning in January 2011, the ORL began publishing *Influencing BC,* a quarterly online newsletter about lobbying, lobbyists, and public accountability in the lobbying process.[6] This publication is a vehicle for providing new and important information to stakeholders and citizens of B.C. The distribution list for this publication includes individual lobbyists and lobbying organizations, the media, industry and non-profit associations, chambers of commerce, and academic contacts.

In addition to providing information about the registration process and lobbying news, *Influencing BC* contains articles reflecting different perspectives on the topic of lobbying, including articles from the lobbying industry and the media. The viewpoints expressed in the newsletter are not necessarily those of the Registrar. The publication is intended to encourage critical dialogue amongst all stakeholders. The hope is that this publication will evolve into a platform for thoughtful discussion about the role of lobbying in the democratic process, lobbying and transparency, and ways to improve the process.

Who's Lobbying Who

"Who's Lobbying Who" is a monthly snapshot of lobbyist registrations received by the ORL. It briefly summarizes the details of each month's registrations, beginning in July 2010. It includes the names of consultant lobbyists or organizations submitting registrations, and the targets and aims of their lobbying efforts.

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[5] To find the advisory bulletins, look under the Advisory Bulletins tab on our main page: http://www.lobbyistsregistrar.bc.ca/

[6] To find the latest version of *Influencing BC,* look under the Outreach tab on our main page: http://www.lobbyistsregistrar.bc.ca/

The goal of the LRA is to make lobbying in British Columbia transparent, so that members of the public can see who is attempting to influence government decision makers on what issues. "Who's Lobbying Who" supports that aim by making it easy for members of the public to quickly check to see what lobbying activities are being undertaken from month to month. "Who's Lobbying Who" is accessible from a tab on the ORL home page.

III. Verification of Registration

Information contained in the registry should be complete, unambiguous, and accurate. All registrations are reviewed by the ORL for completeness and accuracy. The office conducts random verification audits to ensure that information contained in the registry supports the intent of the law to maintain transparency. A random audit involves checking details contained in registrations to ensure that they are true and accurate. If a random audit reveals inconsistencies in a registration, an administrative review is conducted to establish the cause of the inconsistencies and determine if the matter should be pursued further.

IV. Environmental Scanning

Environmental scanning is the proactive monitoring of government priorities, publications and websites, media outlets, and industry events, websites and publications to ascertain whether investigation is required into possible matters of non-compliance. The office collects information through environmental scans and compares it to information in the registry to identify possible cases of non-compliance that should be pursued further.

V. Administrative Reviews

Random audits or environmental scans might reveal a case of possible non-compliance. In those instances, the ORL reviews each case to determine how to proceed. Cases might be resolved informally if the review suggests that the matter is better dealt with through some means other than a formal investigation. For example, the matter might be too trivial to warrant an investigation, or too much time might have elapsed for the matter to be considered current, among other possible reasons. Between April 1, 2010, and March 31, 2011, the ORL conducted 43 administrative reviews of suspected non-compliance cases, which were all resolved informally.

VI. Investigations and Administrative Penalties

The avenue of last resort for achieving compliance is a formal investigation and the application of an administrative penalty. If a breach of the law or related regulations is confirmed by a formal investigation, the ORL will administer a proportionate administrative penalty and publish the name of the designated filer in the case and the nature of the breach. In the past year, only one matter proceeded to an investigation, which was closed without the need for further action.

3. THE YEAR IN NUMBERS

In this section, we report statistics from the year's registration activity on the ORL Lobbyists Registry.

ACTIVE REGISTRATIONS

The LRA recognizes two types of lobbyists, **consultant lobbyists**, professional lobbyists who are hired to represent clients, and **in-house lobbyists**, employees of organizations who lobby on behalf of their organization. The law requires that "designated filers" be responsible for registering all persons who should be registered. Consultant lobbyists are their own designated filers and must register themselves. The designated filer for an organization is the most senior officer in the organization who is paid for his or her work. Designated filers register on behalf of the organization, listing as in-house lobbyists all staff members who contribute significantly to the lobbying effort. Organizations are required to register once the collective lobbying efforts of all in-house lobbyists reach 100 hours.

Between April 1, 2010, and March 31, 2011, there were a total of 634 active registrations on the B.C. Lobbyists Registry.

Figure 1, illustrates the total number of active registrations, divided into consultant lobbyists, who file as individuals, and organizations that employ lobbyists. As the chart indicates, there were 370 consultant lobbyist registrations during the year and 264 organization registrations.

FIGURE 1: ACTIVE REGISTRATIONS, CONSULTANT LOBBYISTS AND ORGANIZATIONS

Active registration figures reflect registrations for lobbying undertakings that were being carried out at some point during the 2010-2011 fiscal year.

Each organization's designated filer must record on the organization's registration all in-house lobbyists employed by the organization, once their collective lobbying efforts reach 100 hours.

Figure 2, illustrates the total number of active registrations, divided into consultant lobbyists and in-house lobbyists. Organizations often employ a number of in-house lobbyists. The chart reflects the fact that the 264 organizations registered employ a total of 1,081 in-house lobbyists.

FIGURE 2: CONSULTANT AND IN-HOUSE LOBBYISTS

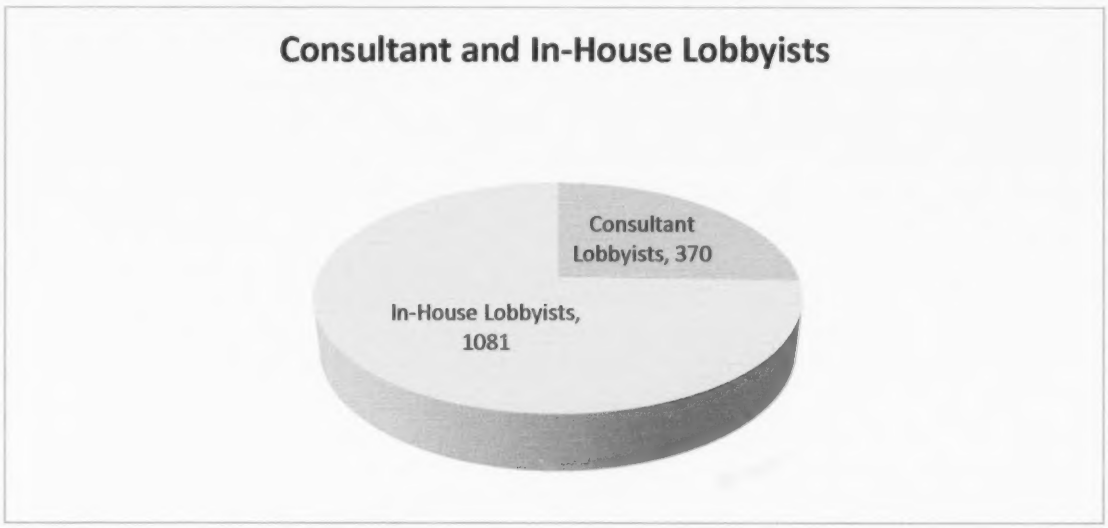
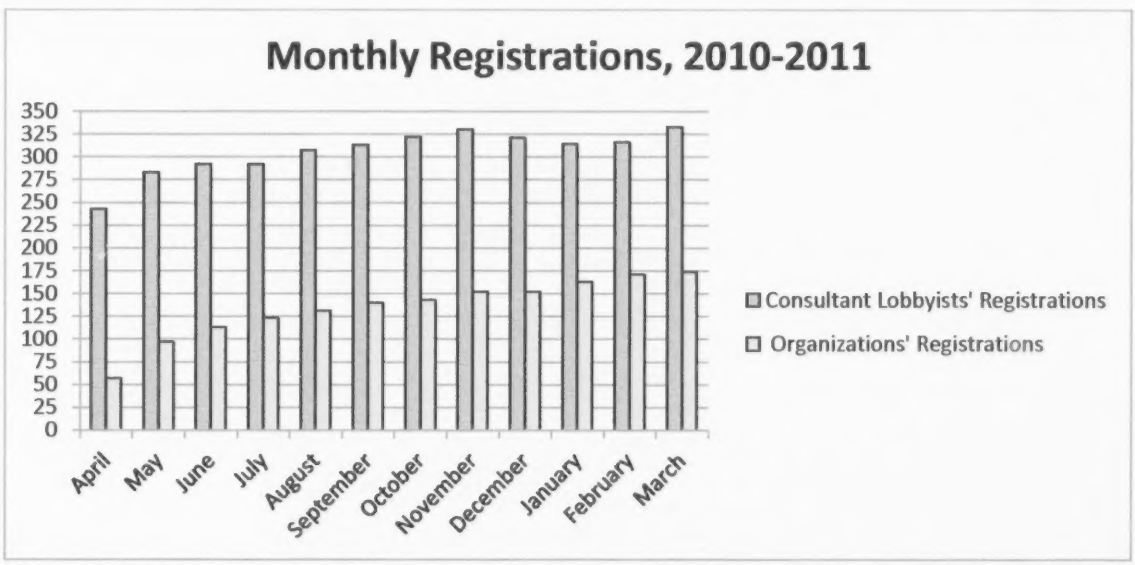


Figure 3, illustrates monthly registration figures for consultant lobbyists and organizations. The most noticeable trend in the year's registrations was the gradual increase in registrations for both consultant lobbyists and organizations that lobby.

FIGURE 3: MONTHLY REGISTRATION FIGURES



➢ Subject Matters

Figure 4, illustrates the ten most-frequently-lobbied subject matters throughout 2010-2011. As the chart shows, health, the environment, and energy were most often the subject of lobbying. Together, they comprise approximately 53% of lobbying instances listed on the registry.

Figure 4: Lobbying Subject Matters

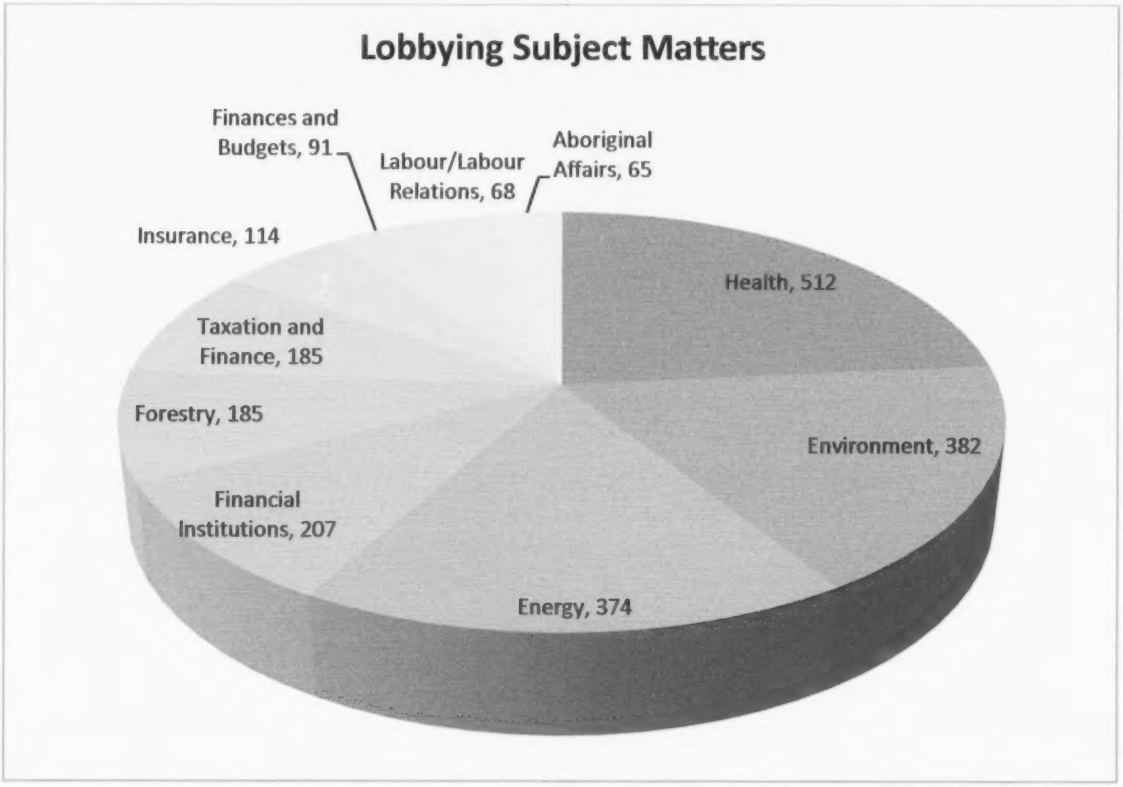


Figure 5, lists the intended outcomes identified by registered lobbyists in 2010-2011. Intended outcomes are the results that lobbyists hope to achieve by communicating with a public office holder.

FIGURE 5: INTENDED OUTCOMES OF LOBBYING FOR 2010-2011

Intended Outcome	# Instances	% Total
Development, establishment, amendment, or termination of any program, policy, or decision	1365	36.1%
Arranging Meeting Between an Individual and a Public Office Holder for Purpose of Lobbying	1343	35.5%
Introduction, Modification, or Repeal of Legislation, Bill, or Regulation	571	15.1%
Arranging a Meeting Between an Individual and a Public Office Holder	314	8.3%
Awarding, Amendment, or Termination of a Contract, Grant, or Financial Benefit	189	5%
Total:	**3782**	**100%**

As the table shows, the great majority of intended outcomes identified by registered lobbyists for 2010-2011 had to do with programs, policies, or decisions, or with arranging a meeting in order to carry out direct lobbying. These two intended outcomes together comprise approximately 71% of the intended outcomes listed by registrants.

4. LOOKING AHEAD

After administering the LRA for a year, enacting our compliance strategy, listening to provincial lobbying stakeholders, and studying recommended practices in lobbyist registration from other jurisdictions, we will pursue a key initiative in the coming year.

➢ LOBBYISTS CODE OF CONDUCT IS NEEDED IN BRITISH COLUMBIA

The ORL believes that the majority of lobbyists carry out their business with honesty and integrity. However, even isolated cases of unprincipled lobbying point to the benefit of having an articulated lobbyists' code of conduct to help provide support for, and encourage ethical practices in, lobbying.

In the coming year, we will be looking into the development of a code of conduct for lobbyists in B.C.

The Registrar has noted that the current model for oversight of lobbying activities is akin to having one bookend. Although a mechanism exists to censure public office holders for unethical behaviour, no equivalent mechanism exists to censure lobbyists for corresponding unethical behaviour. Public office holders are prohibited by the federal *Criminal Code* and the provincial *Members' Conflict of Interest Act* from improperly disclosing confidential information, accepting cash or other gifts of value, or operating in a conflict of interest position. However, there is little to prohibit lobbyists from, for example, soliciting, receiving, and using confidential insider information, attempting to influence by providing gifts or other benefits, and attempting an outcome that could put a public office holder in a potential conflict of interest position.

The ORL is preparing a public consultation paper on creating a Lobbyists Code of Conduct in B.C. This paper will be used to facilitate discussion and engage the public on the shape, powers, and regulatory scope of such a code.

5. Financial Reporting

In addition to being the Registrar of the Lobbyists, the person who is the Registrar also holds a separate appointment as the Information and Privacy Commissioner for British Columbia. The two positions are independent officers of the British Columbia Legislature, and are independent of each other. Although the two positions are independent of each other, the funding for both independent offices of the Legislature is provided through a vote appropriation (Vote 5) of the Legislative Assembly. Details of the ORL finances are reported out through the OIPC financial reports. For more information, see pp. 58 and following of the OIPC Annual Report for 2010-2011 at the following link: http://www.oipc.bc.ca/publications/annual_reports/OIPC_AR_2010_11.pdf.